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DIVISION OF PUBLIC HEALTH

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DATE: April 28, 2003

TO: Interested Parties

FROM: Mary Erikson
Section Chief Primary Care

RE: J-1 Visa Waiver Requests for Wisconsin State-30 Program:
General Information and Application Instructions
Also at: <http://www.dhfs.state.wi.us/programs.htm>

J-1 Visa Waivers:

Wisconsin participates in the J-1 visa waiver program to help communities, which have shortages of primary care physicians, recruit and retain qualified foreign medical graduates to provide primary care for three years. Federal immigration law at 8 U.S.C. 1184 (as amended by Public Law 107-273) authorizes each state to request waivers of the two-year home residence requirement on behalf of 30 J-1 visa physicians each year.

The Wisconsin Division of Public Health (DPH) is the designated state health agency that can submit recommendations for J-1 visa waivers to the U.S. Department of State (USDOS). The USDOS reviews state recommendations and submits its recommendation to the U.S. Immigration and Naturalization Service (INS), which makes the final decision. Once a J-1 visa waiver is granted, the sponsoring employer petitions INS for an H-1b (work) visa in order for the foreign physician to begin employment. The entire process can take up to 6 months.

Starting on August 15th of each year, the Wisconsin Division of Public Health will begin accepting applications for the next federal cycle that starts October 1st. Requests for a state recommendation must be submitted by the health care facility or the facility's agent. Applications are reviewed and decisions made (see requirements below) on a first-come, first-served basis until all 30 slots are used (usually within several months). For federal updates and more information on the U.S. Department of State J-1 visa waiver program, see the USDOS web site at:
<http://travel.state.gov/jvw.html>

US Dept. of State User Fee:

J-1 visa physicians or their attorneys are responsible for submitting the USDOS "user fee" and a completed "J-1 visa waiver review application" directly to the U.S. Department of State. This can be done before or after the rest of the application is submitted to DPH. However please note: a Wisconsin State-30 "slot" will not be assigned until DPH has received, reviewed and approved a complete application from the employer (on or after August 15th). Please see the USDOS web site for detailed instructions on the USDOS "user fee" and the "J-1 visa waiver review application":
<http://travel.state.gov/jvw.html>

Physician Vacancies:

Wisconsin does not maintain a list of vacancies for J-1 visa physicians or provide a placement service. Many physicians search through private recruiters or employment ads. Internet sites that might be helpful include the National Rural Recruitment and Retention Network (membership-based private non-profit placement service) and the Federal National Health Service Corps opportunity list (vacancy list used primarily for federal loan repayment for U.S. physicians):

<http://www.3rnet.org/>

http://nhsc.bhpr.hrsa.gov/opportunities_list/

Eligible Shortage Areas:

The lists of federally designated shortage areas, Health Professional Shortage Areas (HPSAs) and Medically Underserved Areas (MUAs), are updated on an ongoing basis. Physicians must provide care in a primary care HPSA or MUA, and psychiatrists must provide care in a mental health HPSA. A current listing of HPSAs and MUAs respectively, are maintained at the following federal web sites:

<http://bphc.hrsa.gov/databases/newhpsa/newhpsa.cfm>

<http://bphc.hrsa.gov/databases/newmua/>

Also see the DPH web site for more information on shortage areas:

http://www.dhfs.state.wi.us/DPH_BCDHP/J_1VISA/

Federal and State Requirements for Waiver Recommendations:

- The applicant physician must agree to provide full-time primary care for three years (40 hours per week, with at least 24 hours in an outpatient setting).
- The applicant physician must provide care at a facility that is physically located in a federally designated Health Professional Shortage Area or Medically Underserved Area (HPSA or MUA).
- The applicant physician must have completed a residency in a primary care specialty in the U.S. (see following for potential limited exception).
- The physician and facility must provide care to clients eligible for Medicaid and Medicare and for medically indigent clients.
- The physician must begin working at the facility within 90 days of the effective date of the J-1 visa waiver (after completion of the residency program).
- The employer must provide evidence of unsuccessful efforts to recruit U.S. physicians for the position.
- The employment agreement must demonstrate the employer's commitment to recruit and retain the physician for at least three years.

Requesting an H-1b Work Visa:

Once the U.S. INS has approved the J-1 visa waiver, the next steps are for the sponsoring employer (attorney) to petition for an H-1b (work) visa. This includes completing a Prevailing Wage Request, a Labor Condition Application and then petitioning INS for the three-year work visa. The Division of Public Health does not have a formal role in employer petitions for H-1b visas.

Again, thank you for your interest in increasing access to primary care in Wisconsin. If you have any questions concerning Wisconsin's implementation of the Wisconsin J-1 visa waiver program, please contact me at (608) 267-7121 or eriksm@dhfs.state.wi.us

STATE OF WISCONSIN J-1 VISA WAIVER PROGRAM GUIDELINES (Revised Dec. 2002)

The J-1 visa waiver program allows communities, which have shortages of primary care physicians, to recruit and retain qualified foreign medical graduates to provide medical care for three years. Federal immigration law at 8 U.S.C. 1184 (as amended by Public Law 107-273) authorizes each state to request waivers of the two-year home residence requirement for 30 J-1 visa physicians each year.

The State of Wisconsin is committed to assisting all residents of Wisconsin to have access to quality, affordable primary health care, and participates in the J-1 visa waiver program to help increase access to primary care physicians in rural and urban areas with shortages of physicians. The Wisconsin Division of Public Health will consider, under certain conditions, recommending a waiver of the home residence requirement for foreign medical graduates with J-1 visas, to help employers who are committed to recruiting and retaining primary care physicians in designated shortage areas.

‘No Objection’ statement: Federal immigration law at 8 U.S.C. 1184 and U.S. Department of State (USDOS) rules require that some foreign physicians will need a ‘No Objection’ statement from their home government to qualify for a J-1 visa waiver. For more information on when a ‘No Objection’ statement is required and where to send the statement, see the “Frequently Asked Questions” on the USDOS web site at: <http://travel.state.gov/jvw.html>

DESCRIPTION OF THE WAIVER REVIEW PROCESS

Starting on August 15th of each year, the Wisconsin Division of Public Health will begin accepting J-1 visa waiver applications for the next federal cycle that starts October 1st. Requests for a state recommendation must be submitted directly to the Wisconsin Division of Public Health by the health care facility or the facility’s agent.

Applications are reviewed and decisions made (see requirements below) on a first-come, first-served basis until all 30 slots are used (usually within several months). In most instances, the Wisconsin Division of Public Health will act on the request for a waiver recommendation and inform the employer of its action within 14 working days. Employer applications received after the 30 state waiver recommendations have been submitted, will be returned.

The submission of a complete waiver application to the Wisconsin Division of Public Health does not ensure the Wisconsin Division of Public Health will recommend a waiver. In all instances, the Wisconsin Division of Public Health, in its sole discretion, reserves the right to recommend or not recommend any request for a waiver.

All application materials must be submitted in a single package to the Wisconsin Division of Public Health with documents presented in the order set forth. Waiver requests that do not comply with these requirements will not be considered, except as noted.

J-1 visa physicians or their attorneys are responsible for submitting the USDOS “user fee” and the “J-1 visa waiver review application” directly to the U.S. Department of State. This can be done before or after the rest of the application is submitted to the Wisconsin Division of Public Health. However please note: a Wisconsin State-30 “slot” will not be assigned until DPH has received, reviewed and approved an otherwise complete application from the employer (on or after August 15th).

When the physician or their attorney receive the case file number assigned by the USDOS, it should be forwarded to the DPH to add to the completed application. DPH will then submit the completed J-1 visa waiver application and state recommendation to the USDOS. The USDOS reviews all applications and notifies the J-1 visa physician and the state health department of its recommendation to the INS. The INS reviews all applications, makes the final waiver decision, and notifies only the J-1 visa physician. The entire waiver review process by the USDOS and US INS can take several months.

Once INS notifies the foreign physician that their J-1 visa home residence requirement is waived, the next part of the employment process is for the sponsoring employer to submit an H-1B work visa petition to the INS. The Division of Public Health does not have a formal role in employer petitions for H-1b visas.

To start the H-1B visa petition process, employers or their attorneys can:

- Complete a Prevailing Wage Request through the Wisconsin Department of Workforce Development, see the DWD web site at: http://www.dwd.state.wi.us/er/prevailing_wage_rate/default.htm
- Complete a Labor Condition Application for H1-b nonimmigrants through the U.S. Department of Labor; and
- Petition the U.S. Immigration and Naturalization Service for an H1-b visa (temporary work visa) for the foreign medical graduate.

A list of attorneys who have successfully worked with the Division of Public Health on recruitment of foreign physicians is available upon request. For more information on H-1B visa petitions, see the US INS web site at: <http://www.ins.usdoj.gov/graphics/services/employerinfo/h1b3.htm>

FAILURE TO COMPLY WITH IMMIGRATION REQUIREMENTS & STATE-30 REQUIREMENTS

“If the international medical graduate obtains a waiver under Public Law 103-416 and thereafter fails to fulfill the terms of his or her employment contract with the health care facility named in the waiver application, then he or she becomes ineligible to apply for an immigrant visa, permanent residence, or any other change of nonimmigrant status until the two-year foreign residence requirement has been met.” [8 U.S.C. 1184 (l)]

If an employer fails to make reasonable effort to retain the J-1 visa waiver physician for at least three years, the Wisconsin Division of Public Health reserves the right to deny future requests from the employer for state recommendations for J-1 visa waiver physicians.

DESCRIPTION OF WISCONSIN APPLICATION REQUIREMENTS

The Wisconsin Division of Public Health will consider submitting a recommendation to the USDOS to waive the J-1 visa home residence requirement for a foreign physician, if the physician and employer comply with all applicable federal and state requirements, including:

Federal requirements:

1. The applicant physician and employer must agree that the applicant physician will provide full-time medical care at the specified facility located in a federally designated Health Professional Shortage Area (HPSA) or Medically Underserved Area (MUA) for at least three years.
2. The applicant physician will begin working at the health care facility within 90 days of the effective date of the J-1 visa waiver (after completion of training program).
3. The applicant physician agrees to the contractual requirements for J-1 visa waivers set forth in federal immigration law at 8 U.S.C. 1184 (l).
4. The employer must provide documentation of the need for additional primary care providers in the community and documentation of past efforts to recruit physicians (e.g., ads in journals or papers, contract with recruiter).
5. The J-1 visa waiver applicant (physician) must submit the USDOS “user” fee and “J-1 visa waiver review application” for USDOS to process the waiver application.

State requirements:

1. The applicant physician and employer must agree that the applicant physician will provide full-time primary care for at least three years. Full-time is defined as providing direct patient care at least 40 hours per week, with at least 24 hours in an outpatient setting. Primary Care is defined as practice in family medicine, general pediatrics, general internal medicine, general obstetrics/gynecology or general psychiatry.
2. The employment agreement must demonstrate the employer’s commitment to retaining the physician for at least three years, an employment package that is competitive for the service area and the physician’s qualifications/performance (e.g., wage and benefit package, work schedule, other practice supports).
3. The employer and applicant physician must agree to provide care to Medicaid and Medicare eligible patients, as well as medically indigent patients.

4. The applicant physician must have completed a U.S. residency in a primary care specialty, e.g., family medicine, general internal medicine, general pediatrics, general obstetrics or general psychiatry.

Potential Limited Exception for Primary Care Residency Requirement:

For the state requirement that the J-1 visa physician has completed an U.S. residency in a primary care specialty, the Division of Public Health will consider exceptions on a case by case basis. The employer must request an exception to this requirement and provide documentation of extraordinary circumstances as follows:

- The facility must document repeated unsuccessful efforts to recruit U.S. physicians,
 - The physician must have completed a minimum of one year of a primary care U.S. residency and completed a related subspecialty residency, and
 - The exception must be consistent with the public interest of increasing access to primary care in designated shortage areas.
5. The employer hiring the applicant physician, or the employer's authorized agent, must submit a complete J-1 visa waiver request case file to the Division of Public Health as specified below.

WISCONSIN APPLICATION: INSTRUCTIONS

J-1 visa physicians or their attorneys are responsible for submitting the USDOS "user fee" and a completed "J-1 visa waiver review application" directly to the U.S. Department of State. This can be done before or after the rest of the application is submitted to DPH. However please note: a Wisconsin State-30 "slot" will not be assigned until DPH has received, reviewed and approved a complete application from the employer (on or after August 15th). Please see the USDOS web site for detailed instructions on the "user fee" and a blank copy of the USDOS "J-1 visa waiver review application":

<http://travel.state.gov/jvw.html>

An employer's application to the Wisconsin Division of Public Health for a state recommendation for a J-1 visa waiver, must include all of the following documentation. It is helpful if the documentation is provided in the order that follows.

1. An application cover letter from the employer, which briefly describes the need for additional primary care providers in the community (e.g., retirement or loss of physicians, increased patient population). The cover letter must also provide a brief description of recent efforts to recruit physicians (e.g., ads in journals or papers, contract with recruiter).
2. A copy of the USDOS "J-1 visa waiver review application" and the separate statement indicating the physician's reasons for not wishing to fulfill the two-year home country residence requirement to which the physician agreed at the time the J-1 exchange visitor status was accepted.

3. The USDOS assigned case file number. The USDOS will assign a case file number in response to the submission of the USDOS “user fee” and “J-1 visa waiver review application”. When the physician or attorney receive the assigned USDOS case file number, it should be forwarded to DPH to add to the completed application.
4. A copy of a signed employment agreement which: is valid for at least three years, specifies full-time employment providing primary care (40 hours per week, with at least 24 hours in an outpatient setting), specifies the street address for the applicant physician’s practice location, and includes an employment offer consistent with retaining the physician for at least three years.
5. The name of the federally designated shortage area (HPSA or MUA) where the applicant physician’s practice will be located (official documentation of the designation status is provided by the Wisconsin Division of Public Health).
6. A signed copy of the Applicant Physician Assurances form (copy enclosed).
7. A signed Health Care Facility Assurances form (copy enclosed).
8. Copies of all IAP-66 Certificate of Eligibility for Exchange Visitor forms, and copy of the I-94 Departure Record (front and back).
9. A copy of the applicant physician’s curriculum vitae.
10. Evidence of the applicant physician’s completion of a U.S. residency in a primary care specialty as defined previously, or a letter from the residency director indicating the applicant’s current status in a residency or fellowship program.
11. Evidence of a valid professional license to practice medicine in Wisconsin; or a copy of the physician’s application to the Wisconsin Department of Regulation and Licensing.
12. Three letters of recommendation for the physician from professionals in health care.
13. If a ‘No Objection’ statement is required by the USDOS, see the USDOS web site for more information on how to obtain the statement and where to send it: <http://travel.state.gov/jvw.html>

COMPLETED APPLICATIONS AND QUESTIONS SHOULD BE FORWARDED TO:

By U.S. mail:

Mary Erikson
Wisconsin Division of Public Health
P.O. Box 2659
1 W. Wilson St.
Madison WI 53701-2659

By courier service:

Mary Erikson
Wisconsin Division of Public Health
1 W. Wilson Street, Rm, 218
Madison WI 53703